

Chapter 27

Sexually Explicit Business and Escort Service Tax

59-27-101 Title.

This chapter is known as the "Sexually Explicit Business and Escort Service Tax."

Enacted by Chapter 214, 2004 General Session

59-27-102 Definitions.

- (1) "Escort" means any individual who is available to the public for the purpose of accompanying another individual for:
 - (a) companionship; and
 - (b)
 - (i) a salary;
 - (ii) a fee;
 - (iii) a commission;
 - (iv) hire;
 - (v) profit; or
 - (vi) any amount similar to an amount listed in this Subsection (1)(b).
- (2) "Escort service" means any person who furnishes or arranges for an escort to accompany another individual for:
 - (a) companionship; and
 - (b)
 - (i) a salary;
 - (ii) a fee;
 - (iii) a commission;
 - (iv) hire;
 - (v) profit; or
 - (vi) any amount similar to an amount listed in this Subsection (2)(b).
- (3) "Nude or partially denuded individual" means an individual with any of the following less than completely and opaquely covered:
 - (a) genitals;
 - (b) the pubic region; or
 - (c) a female breast below a point immediately above the top of the areola.
- (4) "Sexually explicit business" means a business at which any nude or partially denuded individual, regardless of whether the nude or partially denuded individual is an employee of the sexually explicit business or an independent contractor, performs any service:
 - (a) personally on the premises of the sexually explicit business;
 - (b) during at least 30 consecutive or nonconsecutive days within a calendar year; and
 - (c) for:
 - (i) a salary;
 - (ii) a fee;
 - (iii) a commission;
 - (iv) hire;
 - (v) profit; or
 - (vi) any amount similar to an amount listed in this Subsection (4)(c).

Enacted by Chapter 214, 2004 General Session

59-27-103 Tax imposed on a sexually explicit business -- Tax imposed on an escort service.

- (1) A tax is imposed on a sexually explicit business equal to 10% of amounts paid to or charged by the sexually explicit business for the following transactions:
 - (a) an admission fee;
 - (b) a user fee;
 - (c) a retail sale of tangible personal property made within the state;
 - (d) a sale of:
 - (i) food and food ingredients as defined in Section 59-12-102; or
 - (ii) prepared food as defined in Section 59-12-102;
 - (e) a sale of a beverage; and
 - (f) any service.
- (2)
 - (a) Except as provided in Subsection (2)(b), a tax is imposed on an escort service equal to 10% of amounts paid or charged by the escort service for any transaction that involves providing an escort to another individual.
 - (b) Notwithstanding Subsection (2)(a), the tax imposed by Subsection (2)(a) does not apply to a transaction that is subject to the tax imposed in Subsection (1).
- (3) The tax imposed by this section:
 - (a) may not be imposed on any sales and use tax collected or paid under Chapter 12, Sales and Use Tax Act; and
 - (b) is subject to an agreement sales and use tax under Chapter 12, Sales and Use Tax Act.
- (4) The commission shall administer this chapter in accordance with Chapter 12, Part 1, Tax Collection.

Enacted by Chapter 214, 2004 General Session

59-27-104 Payment of tax.

- (1) Subject to Subsection (2), a sexually explicit business or escort service subject to the tax imposed by this chapter shall file a return with the commission and pay the tax calculated on the return to the commission:
 - (a) quarterly on or before the last day of the month immediately following the last day of the previous calendar quarter if:
 - (i) the sexually explicit business or escort service is required to file a quarterly sales and use tax return with the commission under Section 59-12-107; or
 - (ii) the sexually explicit business or escort service is not required to file a sales and use tax return with the commission under Chapter 12, Sales and Use Tax Act; or
 - (b) monthly on or before the last day of the month immediately following the last day of the previous calendar month if the sexually explicit business is required to file a monthly sales and use tax return with the commission under Section 59-12-108.
- (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to:
 - (a) establish standards for determining whether an operation is a sexually explicit business or escort service; and
 - (b) determine, for purposes of Section 59-27-102, amounts that are similar to an amount paid for:
 - (i) a salary;
 - (ii) a fee;

- (iii) a commission;
- (iv) hire; or
- (v) profit.

Amended by Chapter 382, 2008 General Session

59-27-105 Sexually Explicit Business and Escort Service Fund -- Administrative charge.

- (1) There is created an expendable special revenue fund called the "Sexually Explicit Business and Escort Service Fund."
- (2)
 - (a) Except as provided in Subsection (3), the fund consists of all amounts collected by the commission under this chapter.
 - (b)
 - (i) The money in the fund shall be invested by the state treasurer pursuant to Title 51, Chapter 7, State Money Management Act.
 - (ii) All interest or other earnings derived from the fund money shall be deposited in the fund.
- (3) Notwithstanding any other provision of this chapter, the commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this chapter.
- (4)
 - (a) Fund money shall be used as provided in this Subsection (4).
 - (b) The Department of Corrections shall use 60% of the money in the fund, in addition to existing budgets, to provide treatment services to nonworking or indigent adults who:
 - (i) have been convicted of an offense under Title 76, Chapter 5, Part 4, Sexual Offenses; and
 - (ii) are not currently confined or incarcerated in a jail or prison.
 - (c) The Adult Probation and Parole section of the Department of Corrections shall use 15% of the money in the fund to provide outpatient treatment services to individuals who:
 - (i) have been convicted of an offense under Title 76, Chapter 5, Part 4, Sexual Offenses; and
 - (ii) are not currently confined or incarcerated in a jail or prison.
 - (d) The Department of Corrections shall use 10% of the money in the fund, in addition to existing budgets, to implement treatment programs for juveniles who have been convicted of an offense under Title 76, Chapter 5, Part 4, Sexual Offenses.
 - (e) The attorney general shall use 15% of the money in the fund to provide funding for any task force:
 - (i) administered through the Office of the Attorney General; and
 - (ii) that investigates and prosecutes individuals who use the Internet to commit crimes against children.

Amended by Chapter 400, 2013 General Session

59-27-106 Records.

- (1) An owner or operator of a sexually explicit business or escort service shall maintain records, statements, books, or accounts necessary to determine the amount of tax for which the owner or operator is liable to pay under this chapter.
- (2) The commission may require an owner or operator of a sexually explicit business or escort service, by notice served on the person, to make or keep the records, statements, books, or accounts described in Subsection (1) in a manner in which the commission considers sufficient to show the amount of tax for which the owner or operator is liable to pay under this chapter.

- (3) After notice by the commission, the owner or operator of a sexually explicit business or escort service shall open the records, statements, books, or accounts specified in this section for examination by the commission or an authorized agent of the commission.

Enacted by Chapter 214, 2004 General Session

59-27-108 Penalties and interest.

An owner or operator of a sexually explicit business or escort service that fails to comply with this chapter is subject to:

- (1) penalties provided in Section 59-1-401; and
- (2) interest provided in Section 59-1-402.

Enacted by Chapter 214, 2004 General Session